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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2010-357**

12 **JANE RENEE OTTO**
13 **459 Crown Ridge Rd**
14 **Perris, CA 92570**

ACCUSATION

15 **Registered Nurse License No. 534458**
Public Health Nurse License No. 58209

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about July 28, 1997, the Board of Registered Nursing issued Registered Nurse
24 License Number 534458 to Jane Renee Otto (respondent). The Registered Nurse License was in
25 full force and effect at all times relevant to the charges brought herein and will expire on
26 March 31, 2011, unless renewed.

27 **///**
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3. On or about October 23, 1997, the Board of Registered Nursing issued Public Health Nurse Certificate Number 58209 to Jane Renee Otto (respondent). The Public Health Nurse Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

7. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

....

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

9. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

....

10. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

....

11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

12. California Code of Regulations, title 16, section 1445, states:

...

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(March 26, 2009 Conviction for Driving Under the Influence of Alcohol on October 6, 2008)

14. Respondent is subject to disciplinary action under sections 490, 2761, subdivision (f), and 2762(c) of the Code in that she was convicted of a crime involving alcohol that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

15. On or about October 6, 2008, at approximately 2:20 a.m., while driving at a high rate of speed on a four lane highway, respondent drove her vehicle into the back of a motorcycle knocking the rider to the shoulder of the road and causing bodily injury. A police officer

1 contacted respondent at the scene. She admitted driving the vehicle that hit the motorcyclist. The
2 officer observed that respondent's eyes were red and bloodshot and her speech was slurred. The
3 officer smelled the odor of alcohol on her breath. The officer administered field sobriety tests
4 which respondent failed. She was arrested for driving under the influence of alcohol. The victim
5 sustained a fractured ankle, broken rib, spinal fractures, and injuries to his spleen and kidney. At
6 the time of the accident, her blood alcohol level was 0.15 percent or above.

7 16. On or about March 26, 2009, in a criminal proceeding entitled *People of the State of*
8 *California v. Jane Renee Otto*, in Riverside Superior Court, case number RIF146367, respondent
9 pleaded guilty to violating Vehicle Code section 23153(a), driving under the influence of alcohol
10 and causing bodily injury, a felony.

11 17. Respondent was sentenced to probation for three years. She was also committed to
12 custody for 365 days, and ordered to complete the SB 38, the Drinking Driver Program, and to
13 undergo counseling, among other terms.

14 SECOND CAUSE FOR DISCIPLINE

15 (Use of Alcohol in a Manner Dangerous to Self or Others)

16 18. Respondent is subject to disciplinary action under section 2762, subdivision (b) of
17 the Code in that on or about October 6, 2008, respondent used alcohol to an extent as to be
18 dangerous to herself or others, as set forth above in paragraphs 13 through 16.

19 THIRD CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct)

21 19. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the
22 Code for unprofessional conduct in that on or about March 26, 2009, Respondent was convicted
23 of driving under the influence of alcohol with a blood alcohol level of 0.15 percent or above, as
24 set forth above in paragraphs 13 through 16.

25 DISCIPLINARY CONSIDERATIONS

26 20. To determine the degree of discipline, if any, to be imposed on respondent,
27 complainant alleges that on or about May 28, 2004, in a prior disciplinary action entitled "*In the*
28 *Matter of the Accusation Against Jane Renee Otto* before the Board of Registered Nursing, in

1 Case Number 2003-250, respondent's license was placed on probation for three years on terms
2 and conditions for sustaining two prior convictions of driving under the influence of alcohol on
3 June 14, 2000 and on June 7, 2001. That decision is now final. The circumstances of the
4 convictions follow.

5 21. On April 7, 2000, respondent was found passed out behind the wheel of her car while
6 in the middle of traffic with a blood alcohol level of .21%. This conduct resulted in the June 14,
7 2000 conviction.

8 22. On April 25, 2001, respondent was involved in a traffic accident where it was
9 determined her blood alcohol level was .21%. This resulted in the June 7, 2001 conviction for
10 driving under the influence of alcohol.

11 **PRAYER**

12 WHEREFORE, complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

14 1. Revoking or suspending Registered Nursing License Number 534458, issued to Jane
15 Renee Otto;

16 2. Revoking or suspending Public Health Nurse License Number PHN 58209, issued to
17 Jane Renee Otto;

18 3. Ordering Jane Renee Otto to pay the Board of Registered Nursing the reasonable
19 costs of the investigation and enforcement of this case, pursuant to Business and Professions
20 Code section 125.3; and

21 4. Taking such other and further action as deemed necessary and proper.

22 DATED: _____

23 2/2/10

24 *Louise R. Bailey*
25 LOUISE R. BAILEY, M.ED., RN
26 Interim Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
State of California
Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JANE RENEE OTTO
18025 Hickory Tree Lane
Riverside, CA 92504

Registered Nurse License No. 534458

Respondent.

Case No. 2003-250

OAH No. L-2003080640

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 27, 2004.

It is so ORDERED May 28, 2004.

Sandra L. Erickson

**FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS**

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2 of the State of California
3 RONALD A. CASINO, State Bar No. 70410
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12 Attorneys for Complainant

13 **BEFORE THE**
14 **BOARD OF REGISTERED NURSING**
15 **DEPARTMENT OF CONSUMER AFFAIRS**
16 **STATE OF CALIFORNIA**

17 In the Matter of the Accusation Against:

18 JANE RENEE OTTO
19 18025 Hickory Tree Lane
20 Riverside, CA 92504

21 Registered Nurse License No. 534458

22 Respondent.

Case No. 2003-250

OAH No. L-2003080640

23 **STIPULATED SETTLEMENT AND**
24 **DISCIPLINARY ORDER**

25 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
26 above-entitled proceedings that the following matters are true:

27 PARTIES

28 1. Complainant Ruth Ann Terry, M.P.H., R.N., is the Executive Officer of
the Board of Registered Nursing. She brought this action solely in her official capacity and is
represented in this matter by Bill Lockyer, Attorney General of the State of California, by Ronald
A. Casino, Deputy Attorney General.

2. Respondent is represented in this proceeding by attorney Richard K. Isles,
Esq., whose address is 4192 Brockton Avenue, Suite 102, Riverside, California 92501.

3. On or about July 28, 1997, the Board of Registered Nursing issued
Registered Nurse License Number 534458 to Jane Renee Otto ("Respondent"). The license will
expire on March 31, 2005, unless renewed.

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1 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
2 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
3 and enforceable to the fullest extent permitted by law.

4 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
5 A full and detailed account of any and all violations of law shall be reported by Respondent to
6 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
7 compliance with this condition, Respondent shall submit completed fingerprint forms and
8 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
9 as part of the licensure application process.

10 **Criminal Court Orders:** If Respondent is under criminal court orders, including
11 probation or parole, and the order is violated, this shall be deemed a violation of these probation
12 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

13 2. **Comply with the Board's Probation Program.** Respondent shall fully
14 comply with the conditions of the Probation Program established by the Board and cooperate
15 with representatives of the Board in its monitoring and investigation of the Respondent's
16 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
17 within no more than 15 days of any address change and shall at all times maintain an active,
18 current license status with the Board, including during any period of suspension.

19 Upon successful completion of probation, Respondent's license shall be fully
20 restored.

21 3. **Report in Person.** Respondent, during the period of probation, shall
22 appear in person at interviews/meetings as directed by the Board or its designated
23 representatives.

24 4. **Residency, Practice, or Licensure Outside of State.** Periods of
25 residency or practice as a registered nurse outside of California shall not apply toward a reduction
26 of this probation time period. Respondent's probation is tolled, if and when she resides outside
27 of California. Respondent must provide written notice to the Board within 15 days of any change
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1 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
2 returning to practice in this state.

3 Respondent shall provide a list of all states and territories where she has ever been
4 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
5 provide information regarding the status of each license and any changes in such license status
6 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
7 new nursing license during the term of probation.

8 **5. Submit Written Reports.** Respondent, during the period of probation, shall
9 submit or cause to be submitted such written reports/declarations and verification of actions
10 under penalty of perjury, as required by the Board. These reports/declarations shall contain
11 statements relative to Respondent's compliance with all the conditions of the Board's Probation
12 Program. Respondent shall immediately execute all release of information forms as may be
13 required by the Board or its representatives.

14 Respondent shall provide a copy of this Decision to the nursing regulatory agency
15 in every state and territory in which she has a registered nurse license.

16 **6. Function as a Registered Nurse.** Respondent, during the period of probation,
17 shall engage in the practice of registered nursing in California for a minimum of 24 hours per
18 week for 6 consecutive months or as determined by the Board.

19 For purposes of compliance with the section, "engage in the practice of registered
20 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
21 work in any non-direct patient care position that requires licensure as a registered nurse.

22 The Board may require that advanced practice nurses engage in advanced practice
23 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
24 Board.

25 If Respondent has not complied with this condition during the probationary term,
26 and Respondent has presented sufficient documentation of her good faith efforts to comply with
27 this condition, and if no other conditions have been violated, the Board, in its discretion, may
28 grant an extension of Respondent's probation period up to one year without further hearing in

1 order to comply with this condition. During the one year extension, all original conditions of
2 probation shall apply.

3 **7. Employment Approval and Reporting Requirements.** Respondent shall
4 obtain prior approval from the Board before commencing or continuing any employment, paid or
5 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
6 performance evaluations and other employment related reports as a registered nurse upon request
7 of the Board.

8 Respondent shall provide a copy of this Decision to her employer and immediate
9 supervisors prior to commencement of any nursing or other health care related employment.

10 In addition to the above, Respondent shall notify the Board in writing within
11 seventy-two (72) hours after she obtains any nursing or other health care related employment.
12 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
13 terminated or separated, regardless of cause, from any nursing, or other health care related
14 employment with a full explanation of the circumstances surrounding the termination or
15 separation.

16 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
17 Respondent's level of supervision and/or collaboration before commencing or continuing any
18 employment as a registered nurse, or education and training that includes patient care.

19 Respondent shall practice only under the direct supervision of a registered nurse
20 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
21 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
22 are approved.

23 Respondent's level of supervision and/or collaboration may include, but is not
24 limited to the following:

25 (a) Maximum - The individual providing supervision and/or collaboration is
26 present in the patient care area or in any other work setting at all times.

27 (b) Moderate - The individual providing supervision and/or collaboration is in the
28 patient care unit or in any other work setting at least half the hours Respondent works.

1 (c) Minimum - The individual providing supervision and/or collaboration has
2 person-to-person communication with Respondent at least twice during each shift worked.

3 (d) Home Health Care - If Respondent is approved to work in the home health
4 care setting, the individual providing supervision and/or collaboration shall have person-to-
5 person communication with Respondent as required by the Board each work day. Respondent
6 shall maintain telephone or other telecommunication contact with the individual providing
7 supervision and/or collaboration as required by the Board during each work day. The individual
8 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
9 site visits to patients' homes visited by Respondent with or without Respondent present.

10 9. **Employment Limitations.** Respondent shall not work for a nurse's registry,
11 in any private duty position as a registered nurse, a temporary nurse placement agency, a
12 traveling nurse, or for an in-house nursing pool.

13 Respondent shall not work for a licensed home health agency as a visiting nurse
14 unless the registered nursing supervision and other protections for home visits have been
15 approved by the Board. Respondent shall not work in any other registered nursing occupation
16 where home visits are required.

17 Respondent shall not work in any health care setting as a supervisor of registered
18 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
19 nurses and/or unlicensed assistive personnel on a case-by-case basis.

20 Respondent shall not work as a faculty member in an approved school of nursing
21 or as an instructor in a Board approved continuing education program.

22 Respondent shall work only on a regularly assigned, identified and predetermined
23 worksite(s) and shall not work in a float capacity.

24 If Respondent is working or intends to work in excess of 40 hours per week, the
25 Board may request documentation to determine whether there should be restrictions on the hours
26 of work.

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1 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
2 enroll in and successfully complete a course(s) relevant to the practice of registered nursing no
3 later than six months prior to the end of her probationary term.

4 Respondent shall obtain prior approval from the Board before enrolling in the
5 course(s). Respondent shall submit to the Board the original transcripts or certificates of
6 completion for the above-required course(s). The Board shall return the original documents to
7 Respondent after photocopying them for its records.

8 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
9 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
10 amount of \$1,988.00. Respondent shall be permitted to pay these costs in a payment plan
11 approved by the Board, with payments to be completed no later than three months prior to the
12 end of the probation term.

13 If Respondent has not complied with this condition during the probationary term,
14 and Respondent has presented sufficient documentation of her good faith efforts to comply with
15 this condition, and if no other conditions have been violated, the Board, in its discretion, may
16 grant an extension of Respondent's probation period up to one year without further hearing in
17 order to comply with this condition. During the one year extension, all original conditions of
18 probation will apply.

19 12. **Violation of Probation.** If Respondent violates the condition of her
20 probation, the Board after giving notice and an opportunity to be heard, may set aside the stay
21 order and impose the stayed discipline, revocation of Respondent's license.

22 If during the period of probation, an accusation or petition to revoke probation has
23 been filed against Respondent's license or the Attorney General's Office has been requested to
24 prepare an accusation or petition to revoke probation against Respondent's license, the
25 probationary period shall automatically be extended and shall not expire until the accusation or
26 petition has been acted upon by the Board.

27 13. **License Surrender.** During Respondent's term of probation, if she ceases
28 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of

1 probation, Respondent may surrender her license to the Board. The Board reserves the right to
2 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
3 take any other action deemed appropriate and reasonable under the circumstances, without
4 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
5 will no longer be subject to the conditions of probation.

6 Surrender of Respondent's license shall be considered a disciplinary action and
7 shall become a part of Respondent's license history with the Board. A registered nurse whose
8 license has been surrendered may petition the Board for reinstatement no sooner than the
9 following minimum periods from the effective date of the disciplinary decision:

10 (1) Two years for reinstatement of a license that was surrendered for any reason
11 other than a mental or physical illness; or

12 (2) One year for a license surrendered for a mental or physical illness.

13 **14. Physical Examination.** Within 45 days of the effective date of this Decision,
14 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
15 assistant, who is approved by the Board before the assessment is performed, submit an
16 assessment of the Respondent's physical condition and capability to perform the duties of a
17 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
18 medically determined, a recommended treatment program will be instituted and followed by the
19 Respondent with the physician, nurse practitioner, or physician assistant providing written
20 reports to the Board on forms provided by the Board.

21 If Respondent is determined to be unable to practice safely as a registered nurse,
22 the licensed physician, nurse practitioner, or physician assistant making this determination shall
23 immediately notify the Board and Respondent by telephone, and the Board shall request that the
24 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
25 shall immediately cease practice and shall not resume practice until notified by the Board.
26 During this period of suspension, Respondent shall not engage in any practice for which a license
27 issued by the Board is required until the Board has notified Respondent that a medical

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determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

15. Participate in Treatment/Rehabilitation Program for Chemical

Dependence. Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Respondent in violation of probation.

Based on Board recommendation, each week Respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

16. Abstain from Use of Psychotropic (Mood-Altering) Drugs. Respondent shall completely abstain from the possession, injection or consumption by any route of all

1 psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a
2 health care professional legally authorized to do so as part of documented medical treatment.
3 Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the
4 prescribing health professional, a report identifying the medication, dosage, the date the
5 medication was prescribed, the Respondent's prognosis, the date the medication will no longer
6 be required, and the effect on the recovery plan, if appropriate.

7 Respondent shall identify for the Board a single physician, nurse practitioner or
8 physician assistant who shall be aware of Respondent's history of substance abuse and will
9 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
10 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
11 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
12 condition. If any substances considered addictive have been prescribed, the report shall identify a
13 program for the time limited use of any such substances.

14 The Board may require the single coordinating physician, nurse practitioner, or
15 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
16 addictive medicine.

17 **17. Submit to Tests and Samples.** Respondent, at her expense, shall participate
18 in a random, biological fluid testing or a drug screening program which the Board approves. The
19 length of time and frequency will be subject to approval by the Board. Respondent is responsible
20 for keeping the Board informed of respondent's current telephone number at all times.
21 Respondent shall also ensure that messages may be left at the telephone number when she is not
22 available and ensure that reports are submitted directly by the testing agency to the Board, as
23 directed. Any confirmed positive finding shall be reported immediately to the Board by the
24 program and Respondent shall be considered in violation of probation.

25 In addition, Respondent, at any time during the period of probation, shall fully
26 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
27 tests and samples as the Board or its representatives may require for the detection of alcohol,
28 narcotics, hypnotics, dangerous drugs, or other controlled substances.

1 If Respondent has a positive drug screen for any substance not legally authorized
2 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
3 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
4 from practice pending the final decision on the petition to revoke probation or the accusation.
5 This period of suspension will not apply to the reduction of this probationary time period.

6 If Respondent fails to participate in a random, biological fluid testing or drug
7 screening program within the specified time frame, Respondent shall immediately cease practice
8 and shall not resume practice until notified by the Board. After taking into account documented
9 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
10 Board may suspend Respondent from practice pending the final decision on the petition to
11 revoke probation or the accusation. This period of suspension will not apply to the reduction of
12 this probationary time period.

13 **18. Mental Health Examination.** Respondent shall, within 45 days of the
14 effective date of this Decision, have a mental health examination including psychological testing
15 as appropriate to determine her capability to perform the duties of a registered nurse. The
16 examination will be performed by a psychiatrist, psychologist or other licensed mental health
17 practitioner approved by the Board. The examining mental health practitioner will submit a
18 written report of that assessment and recommendations to the Board. All costs are the
19 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
20 result of the mental health examination will be instituted and followed by Respondent.

21 If Respondent is determined to be unable to practice safely as a registered nurse,
22 the licensed mental health care practitioner making this determination shall immediately notify
23 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
24 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
25 practice and may not resume practice until notified by the Board. During this period of
26 suspension, Respondent shall not engage in any practice for which a license issued by the Board
27 is required, until the Board has notified Respondent that a mental health determination permits

28 ///

1 Respondent to resume practice. This period of suspension will not apply to the reduction of this
2 probationary time period.

3 If Respondent fails to have the above assessment submitted to the Board within
4 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
5 practice until notified by the Board. This period of suspension will not apply to the reduction of
6 this probationary time period. The Board may waive or postpone this suspension only if
7 significant, documented evidence of mitigation is provided. Such evidence must establish good
8 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
9 provided. Only one such waiver or extension may be permitted.

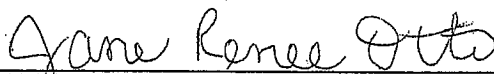
10 19. **Therapy or Counseling Program.** Respondent, at her expense, shall
11 participate in an on-going counseling program until such time as the Board releases her from this
12 requirement and only upon the recommendation of the counselor. Written progress reports from
13 the counselor will be required at various intervals.

14 B. The allegations of Accusation No. 2003-250 are deemed admitted.

15 ACCEPTANCE

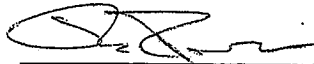
16 I have carefully read the above Stipulated Settlement and Disciplinary Order and
17 have fully discussed it with my attorney, Richard K. Isles. I fully understand the terms and
18 conditions and other matters contained therein. Further, I understand the effect this stipulation
19 will have on my Registered Nurse License. I enter into this Stipulated Settlement voluntarily,
20 knowingly and intelligently and agree to be bound by the Disciplinary Order and Decision of the
21 Board of Registered Nursing. I further agree that a facsimile copy of this Stipulated Settlement
22 and Disciplinary Order, including facsimile copies of signatures, may be used with the same
23 force and effect as the originals.

24 DATED: 11-10-03.

25
26 
27 JANE RENEE OTTO
28 Respondent

1 I have read and fully discussed with Respondent the terms and conditions and
2 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its
3 form and content.

4 DATED: 10 Nov. 03.

5
6 

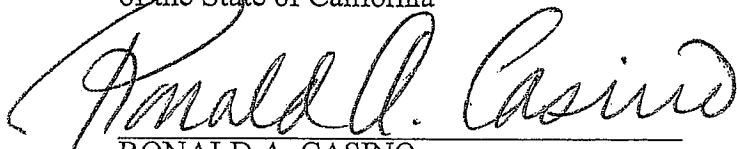
7 RICHARD K. ISLES, ESQ.
8 Attorney for Respondent

9
10 ENDORSEMENT

11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
12 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
13 Affairs.

14 DATED: 11/18/03.

15 BILL LOCKYER, Attorney General
16 of the State of California

17 

18 RONALD A. CASINO
19 Deputy Attorney General

20 Attorneys for Complainant

21 DOJ Docket/Matter ID Number: 03579110-SD2002AD0408
22 80010239.wpd

Exhibit A

Accusation No. 2003-250

1 BILL LOCKYER, Attorney General
of the State of California
2 REGINALD RUCOBA, State Bar No. 137697
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2092
Facsimile: (619) 645-2061
7
8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2003-250

13 JANE RENEE OTTO
18025 Hickory Tree Lane
14 Riverside, CA 92504

A C C U S A T I O N

15 Registered Nurse License No. 534458

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about July 28, 1997, the Board of Registered Nursing issued
24 Registered Nurse License Number 534458 to Jane Renee Otto (Respondent). The Registered
25 Nurse License was in full force and effect at all times relevant to the charges brought herein and
26 will expire on March 31, 2003, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

“(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

7. Section 2762 of the Code states:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her

1 license.

2 8. Section 490 of the Code states:

3 "A board may suspend or revoke a license on the ground that the licensee has
4 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
5 duties of the business or profession for which the license was issued. A conviction within the
6 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
7 contendere. Any action which a board is permitted to take following the establishment of a
8 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
9 been affirmed on appeal, or when an order granting probation is made suspending the imposition
10 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
11 Penal Code."

12 9. Section 125.3 of the Code provides, in pertinent part, that the Board may
13 request the administrative law judge to direct a licentiate found to have committed a violation or
14 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
15 and enforcement of the case.

16 FIRST CAUSE FOR DISCIPLINE

17 (Conviction of Crime)

18 10. Respondent is subject to disciplinary action under sections 490, 2761(f)
19 and 2762(b) in that on or about June 14, 2000, she was convicted by the Court on a plea of guilty
20 of violating Vehicle Code section 23152(A) (driving under the influence) and Vehicle Code
21 section 23152(B) (driving under the influence with .08% or higher blood alcohol) in the San
22 Bernardino Superior Court, case number TWV30138, entitled *People v. Jane Renee Otto*. The
23 circumstances are as follows:

24 11. On or about April 7, 2000, Respondent was found passed-out behind the
25 wheel of a 1996 Infiniti while in the middle of traffic. Respondent's blood tests showed her
26 blood alcohol level to be at .21%.

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